

From: <Diana_Whittington@fws.gov>
To: "Pam Grubaugh-Littig" <pamgrubaughlittig@utah.gov>
Date: 10/3/2005 2:19:06 PM
Subject: Re: accounting for depletion to the Colorado River fish

Pam,

Thanks for sending the amendment.

I have a couple of additional questions, regarding Mexican spotted owl, but I realize Jerriann may not be back within the time frame you need the consultation completed. Is there anyone else in your office who can do it?

Items that need more information:

The letter says the Permittee will conduct MSO calling surveys two years prior to reaching potential MSO habitat. That's good, but that only says you'll look for owls, not what will happen if any are found or what efforts may be made to conserve habitat in designated critical habitat. Are there any other commitments? What if they find MSO?

Meaningful commitments would include: 1) The Permittee includes a commitment immediately notify the Service and the UDWR if owls are detected, 2) Mining will be timed so that subsidence will occur during in the late summer and fall, outside the Mexican spotted owl breeding season of March 1 - August 31. 3) Mining will planned so that subsidence will not affect areas within designated critical habitat that contain primary constituent elements (this last measure provides protection for designated critical habitat, the boundary of which is less than 0.5 mile from the Lila Canyon proposed boundary at several points).

If you and the operator feel comfortable with the 3 measures above, please respond with an 'okay', and I'll be able to finish the letter.

Diana M. Whittington
USFWS, Ecological Services
Energy and Migratory Bird Lead
2369 West Orton Circle
West Valley City, UT 84119
ph: 801/975-3330 x 128
fx: 801/975-3331

"In God we trust, all others need data."

"Pam
Grubaugh-Littig" To: <Diana_Whittington@fws.gov>, "Jerriann Ernsten"
<pamgrubaughlitti <JERRIANNERNSTSEN@utah.gov>
g@utah.gov> cc: "Wayne Hedberg" <WAYNEHEDBERG@utah.gov>
Subject: Re: accounting for depletion to the Colorado River fish
10/03/2005 11:39
AM

We are amending our effect determination for the Lila Canyon extension for the Colorado River fish because of an estimate depletion of 70.63 ac-ft that it will a "may affect" likely to adversely affect for the four Colorado river fish.

>>> <Diana_Whittington@fws.gov> 9/30/2005 3:01 PM >>>

I had this in the West Ridge e-mail, but I came across language in the section 7 for Lila Canyon that make it clear there's a pretty common confusion on how to address depletions to the Colorado River system. So here are the salient points:

Depletions of 100 acre feet or less (small depletion) need to undergo consultation and be reported (by the local FWS Ecological Services Office - us) to the Colorado River Fish Recovery Implementation Program (Program).

Depletions over 100 acre feet (large depletion) need to undergo consultation, be reported, and make a payment (set annually) to the Program.

The section 7 letter on Lila has the following language:

"The Permittee provided the mass balance equation-parameters and total expected water loss from mining operations as 70.63 acre-feet. This volume of water is below the 100 acre-foot guideline that initiates mitigation."

Strictly speaking, the statement is accurate in that above 100 acre-feet there is no payment to the Recovery Program. However, *all* depletions require consultation. In addition, when there is a depletion, the appropriate effects determination is a "may affect, likely to adversely affect".

Could you call me ASAP? I tried calling ya'll this afternoon, but you're probably out (it *is* Friday). If there really is a loss of 70.63 acre-feet, then send me an e-mail amending your determination and I'll amend our letter accordingly (we have a template BO for small depletions).

Diana M. Whittington
USFWS, Ecological Services
Energy and Migratory Bird Lead
2369 West Orton Circle
West Valley City, UT 84119
ph: 801/975-3330 x 128
fx: 801/975-3331

"In God we trust, all others need data."

CC: "Jerriann Ernstsens" <JERRIANNERNSTSEN@utah.gov>, "Wayne Hedberg" <WAYNEHEDBERG@utah.gov>